

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1032

Introduced by Assembly Member Gordon

February 22, 2013

An act to add Section 47614.1 to the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1032, as amended, Gordon. Charter schools: ~~facilities: disputes:~~ *facilities.*

Existing law, *the Smaller Classes, Safer Schools, and Financial Accountability Act*, requires that each school district make available to each charter school operating in the school district facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. *Existing law provides that it is the intent of the people that public school facilities should be shared fairly among all public school pupils, including those in charter schools.* Existing law authorizes ~~the a~~ school district to charge ~~the a~~ charter school a pro rata share of the school district facilities costs that the school district pays for with unrestricted general fund revenues.

~~This bill would provide that the Legislature finds and declares that it is in the public interest that parties to school facilities disputes that arise out of the above provisions be encouraged to seek resolution through mediation prior to seeking relief in a court of law. The bill would require a mediation conference to be scheduled in a timely manner and held at a time and place reasonably convenient to the parties of the dispute.~~

This bill would require a school district to give the same degree of consideration to pupils attending schools operated by the school district as pupils attending charter schools, for purposes of determining appropriate facilities to offer to eligible charter schools. The bill would require the school district to consider certain things when allocating reasonably equivalent facilities to charter schools, including the impact of the facilities offer on students attending schools operated by the school district and the in-district students attending, or proposed to attend, the charter school, as provided. The bill would state that a school district is not required to provide additional facilities to a charter school if the charter school owns or leases facilities that are able to accommodate in-district students in conditions reasonably equivalent to those in which the in-district students would be accommodated if they were attending public schools of the district, as provided. By imposing new requirements on school districts, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47614.1 is added to the Education Code,
 2 to read:
 3 47614.1. (a) Pursuant to Section 47614, in exercising its
 4 discretion in determining appropriate facilities to offer to eligible
 5 charter schools operating within a school district, a school district
 6 shall give the same degree of consideration to pupils attending
 7 schools operated by the school district as pupils attending charter
 8 schools. To ensure that facilities are shared fairly among all public
 9 school pupils, including those in charter schools, in allocating
 10 reasonably equivalent facilities to charter schools operating within
 11 the school district, a school district shall consider the following:

1 (1) *The impact of the facilities offer on students attending*
2 *schools operated by the school district and the in-district students*
3 *attending, or proposed to attend, the charter school. In considering*
4 *this impact, the school district shall do the following:*

5 (A) *Seek to minimize disruption to the educational program of*
6 *students attending schools operated by the school district and the*
7 *in-district students attending, or proposed to attend, the charter*
8 *school.*

9 (B) *Not displace students attending schools operated by the*
10 *school district from their current schools or unnecessarily disrupt*
11 *their educational program.*

12 (2) *The useable space at the comparison school sites operated*
13 *by the school district as well as all useable space at facilities owned*
14 *or leased by the charter school when considering reasonably*
15 *equivalent facilities to be allocated to a charter school. For*
16 *purposes of determining conditions reasonably equivalent for the*
17 *charter school's in-district students, useable space shall not include*
18 *space that cannot be used for educational purposes due to safety*
19 *concerns, topography, lack of improvement, or other conditions.*
20 *The school district shall also exclude from its consideration space*
21 *that is not used by the school district for instructional purposes*
22 *and space that is used solely by private organizations to provide*
23 *services with nonschool district resources.*

24 (b) *A school district is not required to provide additional*
25 *facilities to a charter school if the charter school owns or leases*
26 *facilities for the year for which it seeks allocation of facilities and*
27 *the owned or leased facilities are able to accommodate in-district*
28 *students in conditions reasonably equivalent to those in which the*
29 *in-district students would be accommodated.*

30 (c) *In evaluating a facilities request or formulating a facilities*
31 *offer, arithmetical precision is not required. Instead, the school*
32 *district shall use reasonable good faith methods to evaluate a*
33 *facility request or formulate a facilities offer.*

34 *SEC. 2. The Legislature finds and declares that Section 1 of*
35 *this act does not change the scope or effect of, and furthers the*
36 *purposes of, the Smaller Classes, Safer Schools, and Financial*
37 *Accountability Act because it ensures that public school facilities*
38 *are shared fairly among all public school pupils.*

39 *SEC. 3. If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*
2 *pursuant to Part 7 (commencing with Section 17500) of Division*
3 *4 of Title 2 of the Government Code.*

4 SECTION 1. Section 47614.1 is added to the Education Code,
5 to read:

6 ~~47614.1. (a) The Legislature finds and declares that it is in the~~
7 ~~public interest that parties to school facilities disputes originating~~
8 ~~from Section 47614 be encouraged to seek resolution through~~
9 ~~mediation prior to seeking relief in a court of law. The prehearing~~
10 ~~mediation conference may be an informal process conducted in a~~
11 ~~nonadversarial atmosphere to resolve issues relating to school~~
12 ~~facilities disputes originating from Section 47614, to the~~
13 ~~satisfaction of both parties. Therefore, attorneys or other~~
14 ~~independent contractors used to provide legal advocacy services~~
15 ~~shall not attend or otherwise participate in the prehearing mediation~~
16 ~~conference.~~

17 ~~(b) This section does not preclude the parties to the dispute from~~
18 ~~being accompanied and advised by nonattorney representatives in~~
19 ~~the mediation conferences and consulting with an attorney prior~~
20 ~~to or following a mediation conference.~~

21 ~~(c) If the mediation conference fails to resolve the issues to the~~
22 ~~satisfaction of all parties, either party may seek relief in a court of~~
23 ~~law.~~

24 ~~(d) A mediation conference held pursuant to this section shall~~
25 ~~be scheduled in a timely manner and shall be held at a time and~~
26 ~~place reasonably convenient to the parties to the dispute.~~